

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 5:22-cv-00581-JGB-BFM

Date: November 30, 2023

Title: Michael Robbins v. Christian Pfeiffer, Warden

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Present: The Honorable Brianna Fuller Mircheff, United States Magistrate Judge

Christianna Howard
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Petitioner:
N/A

Attorneys Present for Respondent:
N/A

Proceedings: (In Chambers) Order to Show Cause

Petitioner filed a Petition for Writ of Habeas Corpus on April 4, 2022. On April 13, 2023, the previously assigned Magistrate Judge alerted Petitioner to the fact that several of his claims were not exhausted and that his Petition was subject to dismissal. At Petitioner's request, the Court issued a stay pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005) so that Petitioner could exhaust his claims. The stay was subject to certain conditions, including a deadline for filing in the California Supreme Court and for filing status reports in this Court. (ECF No. 10.) Petitioner did not timely meet the deadlines set in that order and instead, on February 27, 2023, requested further stay of the Petition. (ECF No. 11.)

On May 8, 2023, this Court granted Petitioner's request for a further stay. (ECF No. 13.) Petitioner was ordered to (1) file a state habeas petition in the California Supreme Court setting forth the Petition's unexhausted grounds five and six, by no later than June 22, 2023; (2) file a Notice of Filing State Habeas Petition in this Court by no later than July 7, 2023, along with a copy of the state habeas petition; and (3) file a status report in this Court by no later than August 7, 2023, and further status reports every sixty days following his

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first status report until the California Supreme Court issues its decision. (ECF No. 13 at 2.) The Court also warned Petitioner that “no additional time will be given, absent good cause.” (ECF No. 13 at 2.)

Petitioner, again, did not meet that deadline. As such, on July 26, 2023, the Court ordered Petitioner to show cause why the Court should not recommend that the stay be lifted and why the case should not be dismissed. On August 28, 2023, Petitioner responded, and said that he was awaiting resentencing and that he was continuing to investigate his claims. The Court discharged the Order to Show Cause, ordered Petitioner to file his state habeas petition no later than October 11, 2023, and file a Notice of Filing in this Court by October 25, 2023. One month past the deadline in this Court, Petitioner has not filed anything here, and a search of the California Supreme Court docket suggests he has not filed anything in that Court either.

The Court warned Petitioner in its prior order and repeats the warning that his unexhausted claims are very close to being dismissed. A petitioner who seeks a *Rhines* stay is required to demonstrate that he is diligently pursuing his claims, and is expected to maintain diligence throughout the period of the stay. Here, Petitioner was alerted in April 2022 that some of his claims were unexhausted. Nineteen months later, he still has not even *filed* his claims in state court.

The Court orders Petitioner to (1) file a state habeas petition in the California Supreme Court setting forth the Petition’s unexhausted grounds five and six by **no later than December 30, 2023**; (2) file a Notice of Filing State Habeas Petition in this Court by **no later than January 10, 2024**, along with a copy of the state habeas petition; and (3) file a status report in this Court by **no later than March 10, 2024**, and further status reports every sixty days

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following his first status report until the California Supreme Court issues its decision.

Failure to do so will result in this Court recommending that Claims Five and Six be dismissed.

The Court previously indicated, and will indicate again, that no further extensions will be granted absent extraordinary circumstances, and neither the existence of pending state resentencing proceedings nor general statements about his continued investigation of his claims will be found to constitute extraordinary circumstances.

IT IS SO ORDERED.

cc: Michael Robbins, pro se

Initials of Preparer: ch